

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephanie Mleczkowski	Team: Team # 3	CCRB Case #: 201307307	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/31/2013 6:30 AM	Location of Incident: 145th Street and St. Nicholas Avenue	Precinct: 30	18 Mo. SOL 1/31/2015	EO SOL 1/31/2015	
Date/Time CV Reported Mon, 08/12/2013 9:32 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 08/12/2013 9:32 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Ralph Clement	00000	938238	TB DT3

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joseph Marcello	4247	943519	TB M/TF
2. SGT James Cassano	00993	915426	TB M/TF
3. SGT Kenneth Miller	04564	918005	TB M/TF
4. POM Rafael Rodriguez	3275	940661	TB DT3

Officer(s)	Allegation	Investigator Recommendation
A.SGT Ralph Clement	Discourtesy: Sgt. Ralph Clement spoke rudely to § 87(2)(b)	
B.SGT Ralph Clement	Discourtesy: Sgt. Ralph Clement gestured rudely toward § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the City of New York's 311 Customer Service Center via an online complaint form on August 12, 2013 (encl. 3A-3C).

On July 31, 2013 at 6:30 a.m., § 87(2)(b) was riding her bicycle at the intersection of East 145th Street and Saint Nicholas Avenue in Manhattan. The following allegations resulted:

- **Allegation A- Discourtesy: Sgt. Ralph Clement spoke rudely to** § 87(2)(b)
- **Allegation B- Discourtesy: Sgt. Ralph Clement gestured rudely towards** § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

On November 6, 2013, Inv. Mleczkowski generated a spin-off complaint, CCRB case number § 87(2)(b) for § 87(2)(b)'s allegation that police vehicle numbered 2516 nearly struck her while making a U-turn.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a white woman who was § 87(2)(b) years old at the time of the incident. She is 5'4" tall and weighs one hundred and forty-five pounds. § 87(2)(b) has brown hair and brown eyes.

CCRB Testimony:

§ 87(2)(b) was interviewed at the CCRB on August 21, 2013 and provided the following testimony, which was consistent (encl. 3F-3I).

On July 31, 2013 at approximately 6:30 a.m., in the vicinity of East 145th Street and Saint Nicholas Avenue in Manhattan, § 87(2)(b) was riding her bicycle at a speed of approximately twenty miles per hour and was heading southbound on St. Nicholas Avenue.

§ 87(2)(b) drove through a green traffic light and immediately crossed East 145th Street when a police vehicle that was double parked on the right-hand side of the street, approximately ten feet in front of her, made a U-turn in front of her. The police vehicle did not engage its turning signal or siren before doing so and § 87(2)(b) swerved her bicycle, narrowly avoiding a collision.

§ 87(2)(b) heard yelling resonating from the police vehicle and stopped her bicycle, at which point the vehicle was ten feet behind § 87(2)(b). § 87(2)(b) turned around and an officer, identified via investigation as Sgt. Ralph Clement of Transit Bureau District 3, who was seated in the passenger's seat, called her a jackass three times and stuck up his middle finger towards her. § 87(2)(b) stated in response, "What just happened?" and indicated that she may have cursed towards the officers, however she could not recall exactly what she said to them. § 87(2)(b) visually observed and documented the license plate of the police vehicle as 2516.

§ 87(2)(b) described Sgt. Clement as a white or Hispanic man in his thirties. § 87(2)(b) could not describe the driver of the police vehicle, who was identified via investigation as PO Rafael Rodriguez of Transit Bureau District 3. She noted that both officers were uniformed and she did not obtain any of their identifying information. PO Rodriguez immediately drove away following this incident. § 87(2)(b) noted that there were no witnesses of this incident.

Attempts to Contact Civilians

In order to schedule a photo array with § 87(2)(b) the undersigned investigator e-mailed and mailed please call letters to § 87(2)(b) on June 26th, and July 8th, 2014. Please call messages were left for § 87(2)(b) on July 1st, 8th, and 10th, 2014. As of the date of this report, § 87(2)(b) has not contacted the undersigned investigator in order to schedule a photo array.

NYPD Statements:

Subject Officer: SERGEANT RALPH CLEMENT

- *Sgt. Clement is an Asian man who was § 87(2)(b) years old at the time of this incident. He is 5'6" tall, weighs one hundred and eighty-five pounds, with black hair and brown eyes.*
- *Sgt. Clement was assigned as the Patrol Supervisor, from 11:05 p.m. on July 30, 2013, to 8:02 a.m. on July 31, 2013, in uniform and was partnered with PO Rodriguez.*

Memo Book:

Sgt. Clement did not document any memo book entries in regards to this incident. He documented the following entry at around the time of the incident (encl. 7A-7E):

"06:30: 1 additional @ 157/B'way. 06:45: 1 back to TD03."

CCRB Testimony:

Sgt. Clement was interviewed at the CCRB on October 7, 2014 and provided the following testimony (encl. 7F-7G).

Despite being presented with a synopsis of the incident and a photograph of § 87(2)(b) Sgt. Clement did not recall this incident. He confirmed, however, that on the date of the incident he was the passenger of vehicle numbered 2516.

Witness Officer: PO RAFAEL RODRIGUEZ

- *PO Rodriguez is a Hispanic man who was § 87(2)(b) years old at the time of the incident. He is 5'9" tall, weighs one hundred and sixty pounds, with black hair and brown eyes.*
- *PO Rodriguez was assigned as the Sergeant's Operator, from 11:15 p.m. on July 30, 2013 to 7:50 a.m. on July 31, 2013, in uniform and was partnered with Sgt. Clement.*

Memo Book:

PO Rodriguez did not document any memo book entries in regards to this incident. He documented the following entry at round the time of the incident:

"6:30: 1 additional @ 157/ 1. 06:45: Transport 1 perp to DT03 from 157/ 1 (encl. 8A-8C)."

CCRB Testimony:

PO Rodriguez was interviewed at the CCRB on October 10, 2014 and provided the following testimony (encl. 8D-8E).

Despite being presented with a photograph of § 87(2)(b) as well as with a synopsis of the incident, PO Rodriguez did not recall this incident. PO Rodriguez noted that during his

tour, he was assigned as the driver of vehicle numbered 2516. He noted that at the time of the incident, he responded to a call of officers in need of assistance and as such, he may have engaged the lights and sirens on his vehicle.

Additional Officers Interviewed:

- The following four officers were also interviewed by the CCRB on July 25th, August 14th, and 28th, 2014, respectively: PO Joseph Marcello (encl. 4A-4D), Sgt. Kenneth Miller (encl. 5A-5I) and Sgt. James Cassano (encl. 6A-6F).
- The above officers were interviewed because the Fleet Services Division indicated that vehicle numbered 2516 was assigned to Transit Manhattan Task Force, the command to which these officers are assigned. However, their interviews are not summarized here because the investigation later determined that vehicle number 2516 was assigned to Transit Bureau District 3, and that these officers were not present for this incident.
- Following PO Marcello's CCRB interview, on July 25, 2014, PO Marcello called the undersigned investigator and stated that he conducted a search for police vehicle numbered 2516. He noted that at the time of the incident, that vehicle was assigned to Transit Bureau District 3.

NYPD Documents

Fleet Services Division Vehicle Confirmation

A copy of the aforementioned documentation was sent to the CCRB on February 2, 2014, noting that license plate numbered 2516 was an invalid license plate number (encl. 14H).

However, on April 3, 2014, an additional copy of the aforementioned documentation (encl. 9A) was provided to the CCRB, which notes that vehicle numbered 2516 was assigned to Transit Borough Manhattan Task Force at the time of the incident.

Transit Manhattan Task Force Roll Call

The aforementioned documentation (encl. 9B-9D) notes that on July 31, 2013, during Tour 1, Sgt. Cassano and Sgt. Miller were assigned as the Conditions Supervisors, while PO Marcello was assigned as Sgt. Miller's vehicle operator.

Transit Bureau District 3 Roll Call

The aforementioned documentation (encl. 9G-9N) notes that on July 31, 2013, during Tour 1, Sgt. Clement and PO Rodriguez were assigned to vehicle numbered 2516, while conducting Radio Motor Sector Patrol.

Attempts to Obtain Video Footage

On October 2, 2014, the undersigned investigator mailed a subpoena (encl. 13A) to Capital One Bank, located at 700 Saint Nicholas Avenue in Manhattan, which is within the immediate vicinity of the incident location. On October 7, 2014, the undersigned investigator received the Certified Mail receipt from this document from the United States Postal Service, confirming that such establishment received the subpoena (encl. 13B-13C).

On October 22, 2014, Peter Tannazzo of Capital One Bank's Fraud Investigation division informed the undersigned investigator via telephone that video footage from the bank was unavailable, since it is only stored for sixty to ninety days.

Status of Civil Proceedings

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date